

When Just Saying No Doesn't Matter: No Refusal

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Why do we need No Refusal?



- Traffic deaths are not declining like they should
- Refusal rates are the same with defense lawyers advising people to refuse
- Cases get reduced or dismissed
- Trial conviction rate is low
- We don't know what other drugs are on board
- People have difficulties with breath testing
- Some people may actually be innocent
- The CSI Effect

Blood is the Future



What is a No Refusal?

- In most states, a suspect may not have the right to refuse due to implied consent laws
- However, in almost as many states, the suspect has the ability to refuse a breath or blood test
- Some states criminalize refusals; but most do not, leaving the prosecutor to handle a case with no scientific evidence



What is a No Refusal?

- A No Refusal program will take away the suspect's ability to refuse to provide evidence
- During No Refusal, police, prosecutors, nurses, and judges work to review refusal DWI cases for probable cause to obtain a warrant
- All aspects of the criminal justice field coordinate to ensure scientific evidence is obtained in all DWI cases



NO  **REFUSAL**

Funding a No Refusal

- Volunteer prosecutors, police, judges, etc.
- DA discretionary funds: asset forfeiture
- DA or police budgets
- TXDOT grant funding



Staffing a No Refusal

- Phlebotomist
- Prosecutor
- Judge
- Police officer
 - Ideally should be: SFST instructor, breath test operator, DRE instructor, and phlebotomist
- No Refusal coordinator
- Victim's advocate



No Refusal Timeline



No Refusal Guarantee

- **Save agency money in the long run**
- **Provide solid evidence of alcohol impairment**
 - **AND DRUG IMPAIRMENT**
 - **AND INNOCENCE**
- **Cut down drastically on the number of DWIs**
- **Put officers back on the street faster**
- **Cut down on officer's court time**
- **Receive significant publicity**
- **It will save lives**



NO  **REFUSAL**

No Refusal Ancillary Benefits

- Media coverage increase and DWI decrease
- Prosecutors and police understand each other more
- The medical community becomes more helpful with felony or mandatory blood draws
- Search warrants are less likely to result in suppressions
- More informed judicial decisions on interlocks



How to Conduct a No Refusal?

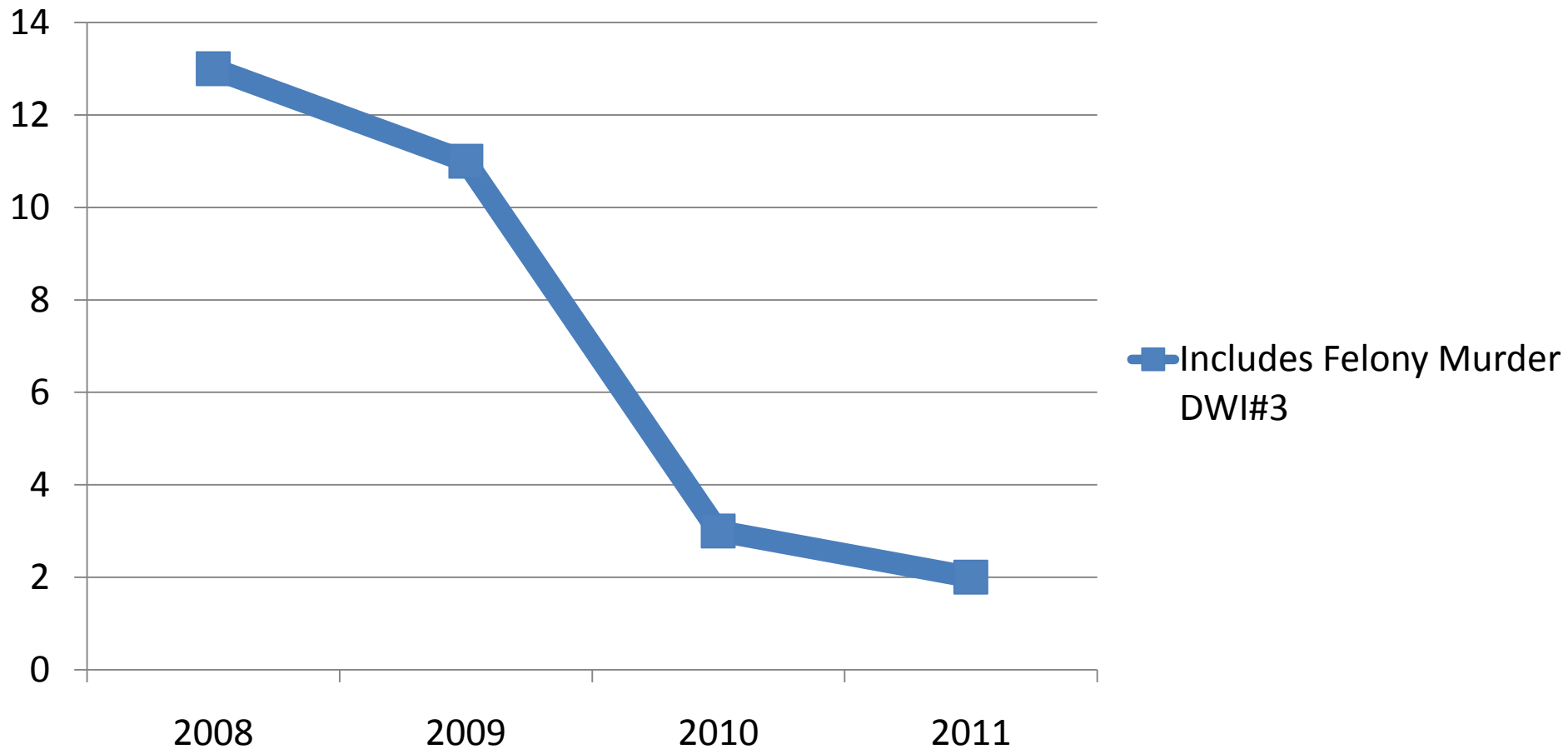
www.nhtsa.gov/no-refusal



www.tdcaa.com/dwi

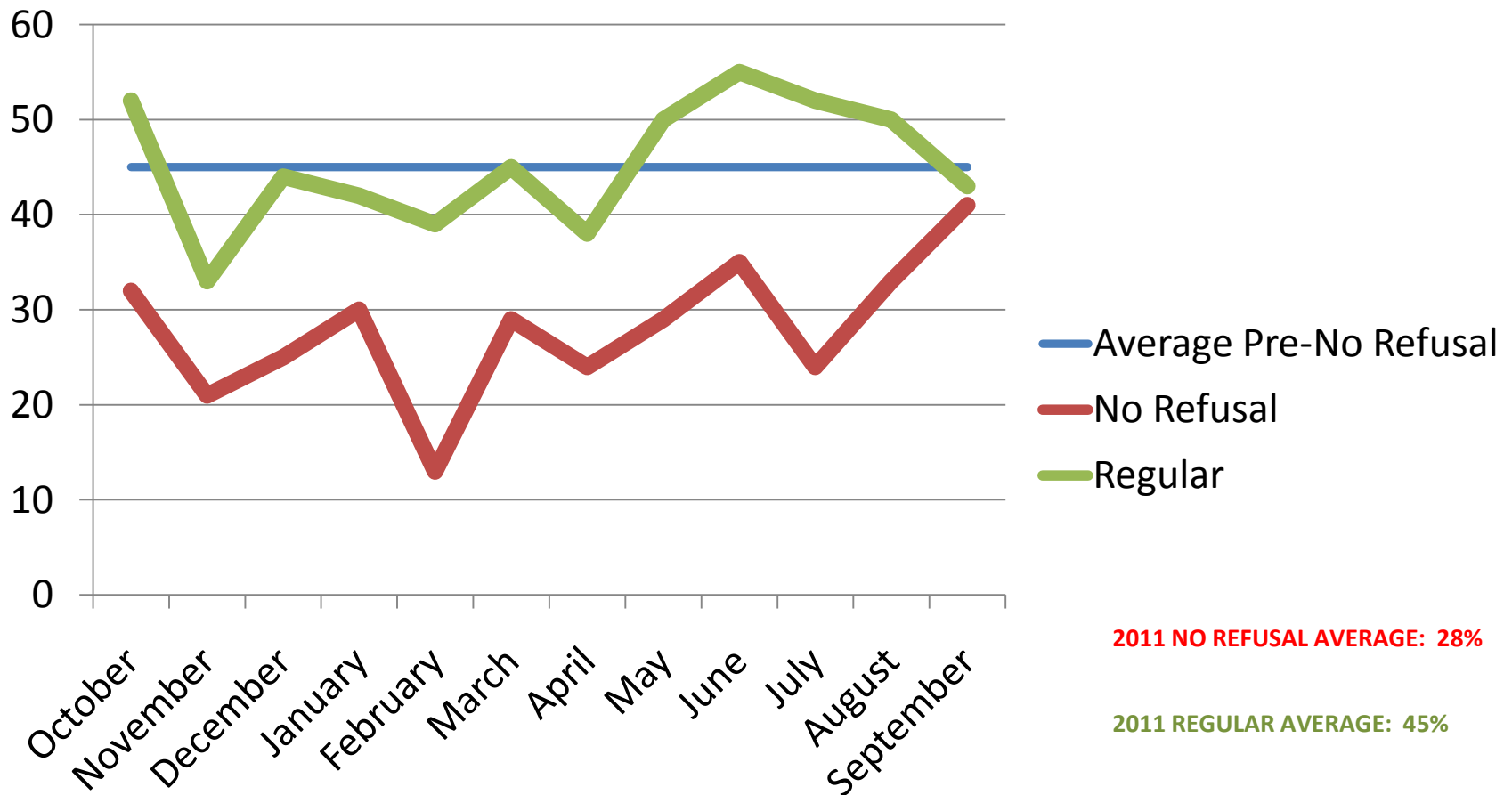
DWI Fatality Cases Filed

Includes Felony Murder DWI#3



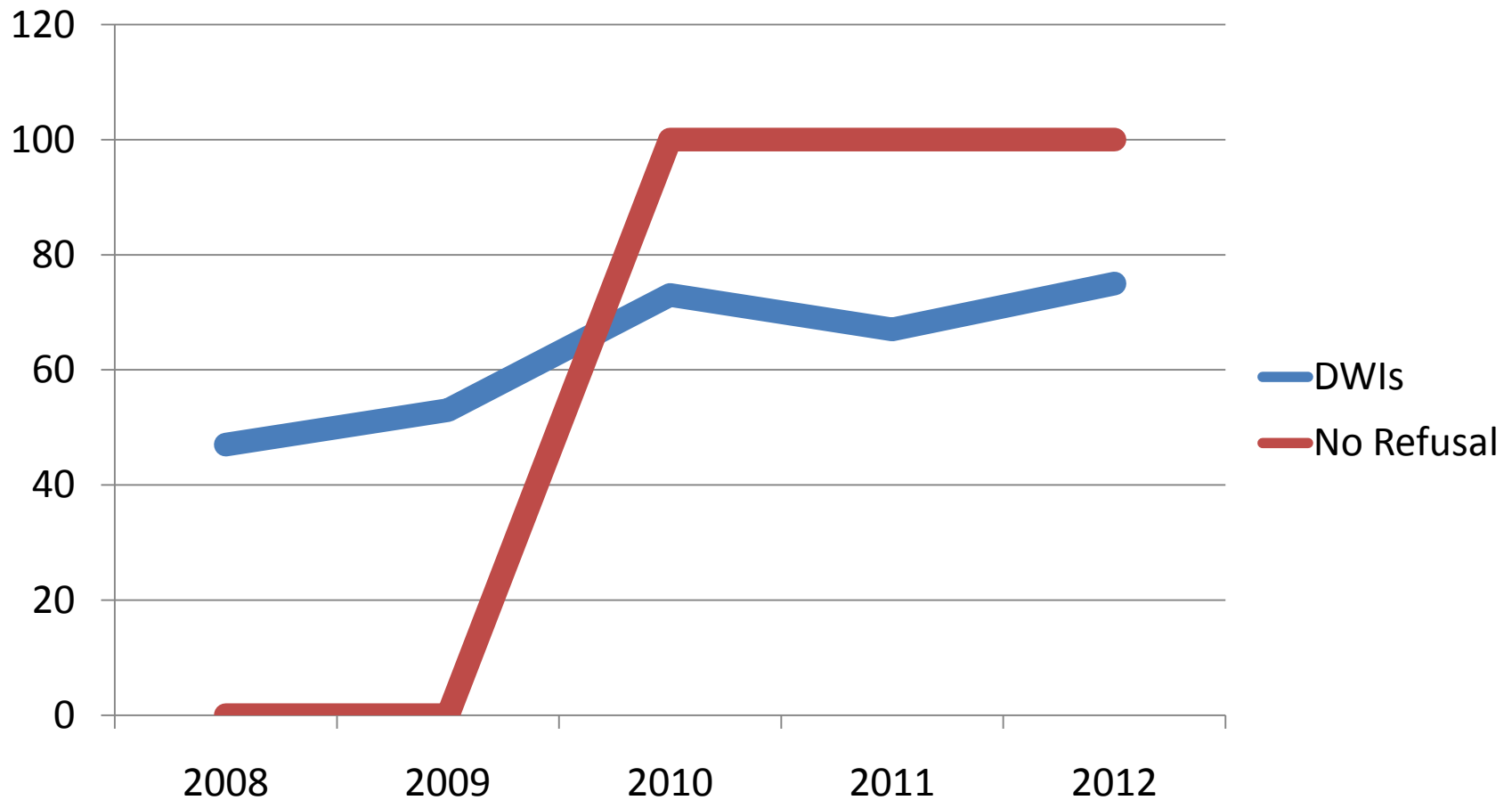
State has seen an increase of approximately 20% in DWI fatalities from 2008-2010*

MCDA TXDOT Refusal Rates 2011



Misdemeanor DWI Trials

Jury Conviction Rates



No Refusal Results Elsewhere

- **Nation's first statewide No Refusal**
 - **About 700 agencies including DPS and TPW**
 - **About 2000 DWI arrests**
 - **DWI fatalities drop 50%**
 - **Refusal rate drops from 45% to 25%**
- **Other areas: Rio Grande Valley, Ft. Worth, Austin, North Texas**
- **Other states**

Problems Encountered

- **Legislative hurdles**
 - Many states limit the police in DWI cases
- **Lack of volunteer judges or inability to pay judges**
- **Lack of funding and supplies**
- **Follow up in the courts:**
 - Blood results often trigger interlock statutes

